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 FM USMISSION GENEVA
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 JOINT STAFF WASHDC IMMEDIATE
 DEPT OF HOMELAND SECURITY WASHINGTON DC IMMEDIATE
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C O R R E C T E D C O P Y //CORRECTED PARA 6 LINE 4 TO READ
 HTTP://GENEVA.USMISSION.GOV

DOD FOR SECDEF, DEPSECDEF, GC, USD-P

E.O. 12958: N/A

TAGS: PHUM, PTER, MARR, UN, PINR

SUBJECT: COMMITTEE AGAINST TORTURE - USG HEARING

1. (U) Summary. A 26-person USG delegation headed by Legal Adviser John B. Bellinger, III, appeared before the U.N. Committee Against Torture on May 5 and 8 and answered numerous questions about issues including detainee mistreatment and accountability for abuse, allegations about renditions and secret sites, conditions in domestic detention facilities, and the U.S. legal interpretation of the Convention Against Torture. The Committee's conclusions are expected on or about May 19. Delegation members also conducted meetings with UNHCHR Arbour, ICRC President Kellenberger, human rights NGOs, and did extensive media outreach. End summary.

 Committee Against Torture Hearing

2. (U) The U.S. delegation appeared before the 10-member

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U.N. Committee Against Torture on May 5 and 8 to present the U.S. second periodic report under the Convention Against Torture and participate in a dialogue with the Committee. All States Parties to the Convention are required to file periodic reports to the Committee. The 26-person delegation was headed by State Department Legal Adviser John B. Bellinger, III, and included Assistant Secretary of State for Democracy, Human Rights, and Labor Barry F. Lowenkron, Associate Deputy Attorney General Tom Monheim, and Deputy Assistant Secretary of Defense for Detainee Affairs Cully Stimson as well as representatives from the Departments of State, Justice, Defense, and Homeland Security.

3. (U) Before the hearing, the USG had provided the Committee its lengthy second periodic report on its implementation of the Convention in May 2005 as well as extensive written responses to the 59 questions from the Committee on that report.

4. (U) During the three-hour session on May 5, A/S Lowenkron and L/A Bellinger delivered opening statements. L/A Bellinger, DAS Stimson, and ADAG Monheim then provided an oral summary of the prior written response to the Committee's 59 questions. Committee members made separate statements of their own and posed more than 40 additional questions to the United States. These covered a wide range of matters, including (1) the USG legal interpretation of the Convention, including the meaning and propriety of U.S. reservations, understandings, and declarations and whether the Convention applies during armed conflict; (2) detainee treatment and accountability for past abuses; (3) intelligence operations, including what oversight and monitoring mechanisms are in place; (4) non-refoulement and the role of diplomatic assurances in U.S. decision-making; and (5) domestic law enforcement issues, including prison conditions and treatment of prisoners. Committee members also asked whether certain practices such as waterboarding, forced disappearances, and incommunicado detention would per se constitute torture or other cruel, inhuman or degrading treatment or punishment.

5. (U) The delegation made a 75-minute oral presentation of answers) compiled by the delegation over the weekend) to these questions during the approximately two-hour session on May 8. Committee members made further comments and asked additional questions. The delegation addressed many of these questions at the session and agreed to provide additional answers in writing by the end of the week.

6. (U) All hearings were open to the press and the public.

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Written materials provided to the Committee and the text of oral statements are publicly available on the website of the U.S. Mission in Geneva: <http://geneva.usmission.gov>

7. (U) The Committee's conclusions and recommendations are expected on or about May 19.

Key Messages from U.S. Presentations

9. (U) The delegation issued a departure statement that highlighted the following key policy and legal messages from the U.S. presentations:

-- U.S. officials from ALL government agencies are prohibited from engaging in torture, at ALL times, and in ALL places. All U.S. officials, wherever they may be, are also prohibited from engaging in cruel, inhuman or degrading treatment or

punishment against any person in U.S. custody, as defined by our obligations under the Convention Against Torture.

-- Despite these prohibitions and mechanisms for enforcing them, some individuals have committed abuses against detainees being held as a result of our current armed conflicts in Iraq and against Al Qaida and its affiliates. The United States Government deplores those abuses. The United States investigates all allegations of abuse vigorously, and when they are substantiated, holds accountable the perpetrators.

-- The United States does not transfer persons to countries where it determines that it is more likely than not that they would be tortured.

-- All governments are imperfect because they are made up of human beings who are, by nature, imperfect. One of the great strengths of our nation is its ability to recognize its failures, deal with them, and act to make things better. The United States is committed to complying fully with the obligations it undertook freely in ratifying the Convention Against Torture, both at home and abroad.

Other Meetings and Media Outreach

10. (U) UNHCHR and ICRC. L/A Bellinger and other delegation members held meetings with U.N High Commissioner Louise Arbour and International Committee of the Red Cross President Jacob Kellenberger.

11. (SBU) NGO Meeting. On Saturday, May 6, several delegation members met with a group of 19 NGO

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representatives, including from groups such as Amnesty International and Human Rights Watch, with whom Department officials meet regularly, but also NGOs focused primarily on domestic issues, such as the National Association of Criminal Defense Lawyers. The NGOs asked questions about detainee policy, treaty interpretation, and alleged intelligence activities. There were also several pointed questions about conditions in U.S. prisons, allegations of police abuses in the U.S., and domestic violence. The tone of the briefing overall was constructive, if at times a bit tense, and the NGO representatives all thanked the delegation for making time to meet with them. The purpose of the meeting was, of course, not to change minds, but to demonstrate openness to dialogue with NGOs, and it achieved that end.

12. (U) The four most senior delegation members held a press briefing Friday afternoon with selected wire and print reporters, L/A Bellinger did extensive one-on-one interviews with TV and radio, and other delegation members did a few one-on-ones. Media coverage throughout was fair and balanced, covered the main substantive issues we wanted to convey, and reflected the message that our participation demonstrates how seriously we take this process.

Cordial Tone, but Pointed Questions

13. (SBU) Comment. The hearings attracted considerable attention and provided a useful platform for us to engage in an open and comprehensive explanation of our legal approach to some of the most difficult questions surrounding the war on terror. There were more than 100 audience members at both sessions, including many NGO representatives and Geneva-based diplomats, so many that the Committee had to book a larger room for the U.S. hearing. There was also widespread print and television coverage.

14. (SBU) The tone of the Committee members was generally cordial and respectful, although comments and questions were pointed. Members clearly appreciated the delegation's willingness to provide as much as information as possible and engage in a dialogue with the Committee. Several committee members praised our answers as thorough and reassuring, even &enlightening,8 in the words of one member. The voluminous and thorough responses we provided make it clear that we take the Committee and its processes seriously. While responding, however, we maintained long-standing USG legal interpretations of the Convention) positions with which

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some Committee members expressed personal disagreement that may also be reflected in the report. Moreover, it remains to be seen to what extent the good will generated by our appearance will be reflected in the Committee,s written recommendations to be released May 19: in informal

discussions before the hearings, the delegation was told that the Committee Secretariat had been instructed to draft conclusions before the sessions even took place. End comment.
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